HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

Single Bench : Hon'ble Shri S.R. Nayak, C.J.

Writ Petition No.430 OF 2005

PETITIONER

Smt. Mala Dubey
W/o Shri T.N. Dubey
Aged about 35 years
Advocate, High Court of C.G.
R/o. Geetanjali Nagar, Bilaspur
(C.G.)

versus

RESPONDENTS

1. Vidya Devi, W/o. Lakhan Lal Saraf
R/o. Geetanjali Nagar, Bilaspur (C.G.)
2. Santosh Soni, S/o. Jagannath Soni, R/o. Geetanjali Nagar, Bilaspur (C.G.)
3. Smt. Tulsi Bai, W/o. Late Navrang Agrawal, R/o Karbala Chowk Bilaspur (C.G.)
4. Ramu Dewangan,
S/o Nakul Dewangan,
R/o Near Karbala Chowk Bilaspur (C.G.)
5. Vijay Verma, S/o Mangal Verma
R/o Karbala Chowk Bilaspur (C.G.)

Present : Mr. Amrito Das, learned counsel for the petitioner.
Mr. Ravish Verma, learned counsel for the respondents.

ORAL ORDER
(Passed on 16th February, 2006)

The petitioner has filed Civil Suit No.161-A/2004 for permanent injunction against the respondents in respect of the suit land Khasra No.284/1, P.C. No.22, area 0.08 Decimal, situated at Geetanjali Nagar, Bilaspur. The respondents too had filed Civil Suit No.37-A/2004 against the petitioner in respect of the same land. On 9-7-2004, the respondents herein filed an application under Section 151 of the Code of Civil Procedure before the Court below praying for clubbing of both the suits

and to dispose of the same after common trial. That application was ordered by the Court below and both the suits came to be clubbed and tried together. When the matter stood thus, the respondents, on 24-7-2004, filed an application under Section 10 of the Code of Civil Procedure praying for staying the suit of the petitioner. That application is allowed by the Court below by the impugned order dated 13-01-2005. Hence, this writ petition under Article 227 of the Constitution of India.

(2) Having heard learned counsel for the parties, I do not think that the Court below is justified in ordering the application filed by the respondents herein under Section 10 of the Code of Civil Procedure. The facts stated supra would go to show that it is just and appropriate that both the suits, filed by the rival parties for the same reliefs and that too with regard to the same subject matter, should be clubbed and heard together. Be that as it may, it needs to be noticed that both the suits came to be clubbed, tried together at the instance of the respondents herein in pursuance of an application made by them under Section 151 of the Code of Civil Procedure. In that view of the matter, I allow the writ petition, set aside the order of the trial Court dated 13-01-2005 impugned in this writ petition and dismiss the application filed by the respondents on 24-7-2004 under Section 10 of the Code of Civil Procedure. The parties shall bear their respective costs in this writ petition.

Sd/-
Chief Justice